

REMARKS/ARGUMENTS

Claims 1-22 stand rejected in the outstanding Official Action. Claims 1, 6, 7, 10, 13, 15-18 and 22 have been amended and newly written claim 23 added for consideration. Therefore, claims 1-23 are the only claims remaining in this application.

On page 2, section 1 of the outstanding Official Action, the Examiner indicates that an initialed copy of applicants' previously submitted PTO Form 1449 "is attached." Applicants find no copy of the previously submitted PTO Form 1449 attached to the outstanding Official Action and requests the Office to forward a copy to applicants.

The Examiner's confirmation of applicants' claim of priority and receipt of the certified copy of the priority documents is very much appreciated. Additionally, the Examiner's indication of acceptance of the formal drawings previously submitted is also appreciated.

The Patent Office objects to the Abstract, and the arrangement of the specification. It is also appreciated that the Examiner has brought the Abstract, and the arrangement of the specification to the applicant's attention. It is noted that the objection to the Abstract, and the arrangement appear to be an indication that the originally filed specification and drawings (transmitted from WIPO) do not meet the formality requirements of the U.S. Patent and Trademark Office. The Patent Office is reminded that the U.S. Patent and Trademark Office must comply with all articles of the Patent Cooperation Treaty (PCT) including Article 27. It has been held that:

“if the rule and interpretation of the PTO conflicts with the PCT, it runs afoul of Article 27 of the PCT which provides in part:

- (1) No national law shall require compliance with requirements relating to the form or contents of the international application different from or additional to those which are provided for in this Treaty and the Regulations.”
Caterpillar Tractor v. Commissioner, 231 USPQ 590, 591 (EDVA 1986).

The Patent Office has referenced this decision in the Official Gazette dated September 9, 1986 (1070 TMOG 5).

As a consequence, the Patent Office (including the Chief Draftsman's Office) may not require Abstract changes, specification format changes and/or drawing corrections (including changes in paper size, margins, etc.) as long as the originally submitted documents comply with the PCT requirements. Inasmuch as this specification and these drawings were forwarded for WIPO, by definition, they meet the PCT requirements (they are not forwarded until they meet PCT requirements.). Therefore, the objection to the Abstract, and the specification is respectfully traversed and reconsideration thereof is respectfully requested.

Notwithstanding the above, applicant will include a retyped Abstract on a separate sheet, and will add headings and subheadings to the specification in the future, if required.

Claim 22 is objected to as lacking a period, and applicants have added a period to this claim in the above-identified amendment. In addition, the Examiner appears to object to claim 22, suggesting that the claim appears to be incomplete. The Examiner also rejects claim 22 under 35 USC §112 as allegedly being an omnibus type claim and

fails to point out what is included or excluded by the claim language. Finally, the Examiner alleges that in claim 22 the claimed "portal" is not properly defined.

Applicants enclose herewith a photocopy of page 916 of *Webster's Ninth New Collegiate Dictionary* which defines "portal" as "door, entrance." Accordingly, claim 22 refers to a door or entrance incorporating the imaging system as set out in claim 1. Thus, the term "portal" is a proper claim limiting term, and the claim cannot possibly be considered an omnibus claim, because it is for a definite term. Accordingly, reconsideration of the objection to claim 22 and the rejection under 35 USC §112 is respectfully requested.

Claims 1, 15 and 18 stand rejected under 35 USC §112 (second paragraph) as being indefinite. The Examiner alleges that these claims are indefinite because "they do not appear to recite the source of the received millimeter wave radiation" and the Examiner erroneously concludes that "the source of the received millimeter wave radiation does not apparently emanate from the contents themselves." Millimeter wave radiation is emanated by all objects having temperatures above absolute zero. Applicants' invention images contents of a container based upon the millimeter wave radiation emanating from objects in the container. Thus, there is no need to recite any transmitter source of millimeter wave radiation, since the "transmitter" is the object itself. Thus, the claim language correctly recites that the present system images the contents based upon millimeter wave radiation from those contents.

With respect to claim 15, the Examiner suggests it is unclear as to what applicants mean. Applicants mean that the focal plane of the reception volume which is being viewed by the receive antenna comprises one area (from which no radiation is received during a complete cycle of the scanning system) that is completely surrounded by another area (from which radiation is received during the scan). Claim 15 merely specifies that the focal plane of the viewed reception volume is one specified area surrounded by a second specified area. The claim is believed to be completely definite and proper in accordance with 35 USC §112 and any further objection thereto is respectfully traversed.

Claims 1-14 and 16-22 stand rejected under 35 USC §102 as anticipated by either Sinclair (U.S. Patent 6,353,224) or Toth (U.S. Patent 6,480,141).

As clearly shown in the Toth patent, microwaves are transmitted from transmitter 316 to receiver 322 and the result provided to "display 328." However, there is no disclosure that display 328 provides any "image" of the device between the transmitter and the receiver. Rather, in Toth no imaging is done, and the display is merely used to show the results of the thresholding process if there is a sufficient blockage between the transmitter and receiver to trigger an alarm or provide other alerting function.

Sinclair is assigned to the assignee of the present application. It is noted that the portion of The Secretary of State which was the assignee of the Sinclair patent (when it issued as a U.S. patent) has been privatized and is now QinetiQ Limited, which is the assignee of the current application. Thus, under 35 USC §103(c), the Sinclair patent is not available prior art, because, at the time the invention was made, it was owned by the

same person or subject to an obligation of assignment to that same person. It is noted that the Sinclair patent has been assigned to QinetiQ Limited, with the Assignment recorded February 20, 2002, at Reel 12831, Frame 0459. It is also noted that the Sinclair issue date of March 5, 2002 was after the present application's priority date of November 30, 2001. As a result, Sinclair is simply not available under 35 USC §103(c).

Moreover, Sinclair does not indicate any system in which a reception volume moves through a container whereupon an image of the contents of the container is presented. As a result, there is simply no support for any rejection of claims 1-14 and 16-22 over the Toth reference (because it does not provide the claimed image) or the Sinclair reference (because it is not available as prior art under 35 USC §103(c)).

Claims 1-14 and 16-22 also stand rejected under 35 USC 102 as being anticipated by McMillan et al ("Concealed Weapon Detection" cited as reference U), Sheen (U.S. Patent 5,557,283) or Pothier (U.S. Patent 3,713,156).

Applicants note that in the McMillan reference there is no disclosure of the use of a camera or other imager to view a moving object. As a result, while McMillan is useful background information, it does not disclose or render obvious the subject matter of applicants' independent claims or claims dependent thereon.

Similar to McMillan, the Sheen reference is again relevant only with respect to being background material. It discloses a transmitter/receiver system and is limited to imaging for the purposes of holography. Sheen also is directed towards fixed objects and

does not address the difficulties of attempting to image a moving object, especially a moving object located in a container.

Pothier discloses a millimeter wave imaging system which requires an illumination source to reflect energy back to a receiving system. It is a passive system which provides no computer system for recording data or for the combining of data and producing a composite image of the contents of the container.

In view of the non-applicability of the above-cited references and the unavailability of the Sinclair reference as a reference against the claims, it is submitted that there is no basis for a rejection of claims 1-14 and 16-22 under 35 USC §102 or §103.

Applicants include herewith newly written claim 23 which further adds the "processing means" to claim 1. Entry and consideration of this newly written claim is respectfully requested.

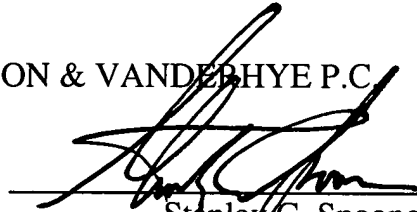
Having responded to all objections and rejections set forth in the outstanding Official Action, it is submitted that claims 1-23 are in condition for allowance and notice to that effect is respectfully solicited. In the event the Examiner is of the opinion that a brief telephone or personal interview will facilitate allowance of one or more of the above claims, he is respectfully requested to contact applicant's undersigned representative.

ANDERTON et al
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Respectfully submitted,

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By: _____


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Enclosure:

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